

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

X

Case No. 15-43716 NHL

JACOB FETMAN,

Chapter 7

Debtor.

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**OPPOSITION TO MOTION FOR RELIEF FROM STAY**

Moshe Fetman and Yaffe Fetman (“The Fetmans”), through their attorneys Law Offices of Gregory Messer, respectfully represent:

1. The Fetmans are the owners of the real property located at 4305 Tenth Avenue, Brooklyn, New York (the “Property”). They have not filed bankruptcy. It is acknowledged that there is a question as, actually an interesting question as to whether or not they have standing to oppose the motion for the relief from the stay when they are not a Debtor. The Movant has determined that they need to bring this motion so it would seem reasonable that the owners of the property have the right to state their position in regard to same.

2. There is a pending adversary proceeding in the Bankruptcy Court for the Trustee to impose a constructive trust on this property. At this point in time the ownership of the property is in question. It would not be fair to the Fetmans if they were forced to make a decision as to how they will proceed with this property until there has been a determination by the Court.

3. Furthermore, and perhaps more significantly, there is significant equity in the property. The Movant is not being prejudiced by the continuation of the automatic stay. After this Court rules on the constructive trust issue the respective positions of the parties will be clear and the Fetmans can determine whether it is in their best interest to pay this mortgage.

WHEREFORE, it is respectfully requested that the Court deny the Movant's motion and grant such other and further relief that this Court deems just and proper.

Dated: Brooklyn, New York  
December 12, 2016

Respectfully submitted,

By: /s/ **Gregory Messer**  
Gregory M. Messer, Esq.  
LAW OFFICE OF GREGORY M. MESSER, PLLC  
Attorneys for the Moshe and Yaffe Fetman  
26 Court Street, Suite 2400  
Brooklyn, NY 11242  
(718) 858-1474